



REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY
2850 SHADELANDS DRIVE, SUITE 100
WALNUT CREEK, CALIFORNIA 94598
(510) 974-4282

RECEIVED
DEC. 7, 1998
CASE CLOSED
FILED & LOGGED

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 4790
WALNUT CREEK, CALIFORNIA 94596
(510) 933-6060
R.W. STALCUP, SECRETARY

MARGARET A. SHORT, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

General Construction Grievance No. OAK-97-18
Fact Finding File No. 6678-98-053
Pre-Review Committee No. 2165

PAT MEDRANO
Company Member
Local Investigating Committee

LULA WASHINGTON
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the discharge of a short service Title 300 Gas Department Utility Worker.

Facts of the Case

The grievant was hired May 27, 1997 and discharged effective December 2, 1997 as unsuited for continued employment during his probationary period. The grievant worked a 4-10 schedule.

On Monday, November 3, 1997 the grievant was required to give a specimen for a DOT random test. He continued to work through Thursday, November 6 which was his last day worked. Friday was an RDO, Saturday and Sunday were non-workdays. On Monday, November 10, he was granted personal business time-off with permission, without pay. Tuesday, November 11 was Veteran's Day Holiday (no pay-probationary). Also, on November 11, 1997 the grievant was informed of the test results by the Medical Review Officer (MRO).

The grievant was reported on sick leave (no pay) until December 1 when the results of the split sample were known. Both the original and split samples were positive for prohibited drugs.

Discussion

At the outset, the grievant denies any drug usage which could give the results attributed to him. The PRC reviewed a significant amount of documentation and thoroughly discussed the facts and statements of those involved with this test process. We have determined that

there were no fatal flaws as detailed in the June 1, 1992 DOT Guidance committed in this testing process. The grievant initialed the bottles of urine which was his confirmation that the bottles contained his specimen (L/A-R3-90-86-PGE, Attachment I, Paragraph M.4.) and he had the opportunity to explore any medical explanation for the results with the MRO. Based on the foregoing, the PRC concludes that the grievant would be required to comply with the recommendation of the MRO as to what rehabilitation treatment, if any, would be required to return to work if the grievant were a regular status employee.


This leads us to the key issue in this case. As a regular status employee the grievant is entitled to consideration under the First Time Violator's Policy. The grievant had received a Payroll Change Tag granting him regular status effective November 27, six months from his hire date. However, because he worked a 4-10 schedule, pursuant to Letter Agreement 91-82, he need only work a total of 92 days in any six consecutive month period at the straight rate of pay.

In a review of the grievant's attendance record since his hire date, there were a couple of occasions when he worked partial days. These partial days worked count as full days toward the attainment of regular status for full-time employees. The PRC determined that the grievant attained regular status effective November 6, his last day worked. Company had argued that if the test results were known prior to his regular status that a positive drug test result is reason to preclude regular status and other probationary employees had been terminated for this reason. Union does not contest that probationary employees are not entitled to consideration under the First Time Violator's Policy.

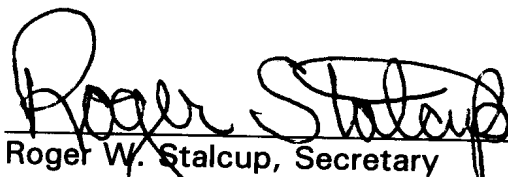
DECISION

Based on the above, the PRC agrees that the grievant must contact the MRO within 10 days of the execution of this decision. He must immediately and continually comply with the recommendations of the MRO. If the grievant does not comply with either of the preceding sentences, the discharge is sustained.

If after completing any MRO recommended treatment and having a negative return to work drug test, the grievant is returned to work, he will be placed at the Written Reminder step of Positive Discipline in the Conduct Category. He will be returned without backpay but with benefits intact, except as provided in Subsection 111.5(a) - Vacations of the Physical Agreement.


Margaret A. Short, Chairman
Review Committee

12/1/98


Roger W. Stalcup, Secretary
Review Committee

12/1/98